

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

LINDA MELLEN,  
  
Plaintiff,  
  
v.  
  
TRUSTEES OF BOSTON UNIVERSITY  
AND FRANCES A. DROLETTE,  
  
Defendants.

Civil Action No. 04-10644-MEL

## **DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Pursuant to Fed. R. Civ. P. 56, Defendants Trustees of Boston University and Frances A. Drolette (together, the “Defendants”) file this motion for summary judgment on all counts of the Complaint. As grounds for this motion, the Defendants state that there is no genuine issue as to any material fact, and they are entitled to judgment as a matter of law.

Specifically, judgment should enter for Defendants on Counts I – VII of the Complaint alleging violation of the Family and Medical Leave Act (“FMLA”). It is undisputed that Plaintiff received the full twelve weeks of leave permitted by the Act, and did not return to the University at the expiration of her leave. As a result, the University was not required to reinstate Plaintiff to her former position as a matter of law.

Furthermore, judgment should enter for Defendants on Count VII of the Complaint, charging violation of the Massachusetts Small Necessities Leave Act (“SNLA”). Plaintiff did not request leave pursuant to the SNLA or provide the

University with notice that she needed or intended to take leave pursuant to the SNLA. Because she did not request benefits under the SNLA, Defendants cannot have wrongfully withheld benefits under the SNLA as a matter of law.

**CONCLUSION**

WHEREFORE, for the foregoing reasons and the reasons set forth in the accompanying Memorandum, Defendants respectfully request that judgment enter for Defendants on all counts of the Complaint.

TRUSTEES OF BOSTON UNIVERSITY  
AND FRANCES A. DROLETTE

By their attorney,

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/s/ Crystal D. Talley  
Lawrence S. Elswit  
(BBO # 153900)  
Crystal D. Talley  
(BBO # 633759)  
Boston University  
Office of the General Counsel  
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Boston, Massachusetts 02215  
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Dated: August 24, 2005

**LR 7.1 Certification**

I, Crystal D. Talley, hereby certify that I have conferred with counsel for Plaintiff and have attempted in good faith to resolve or narrow the issues presented herein.

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/s/ Crystal D. Talley